



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 2
Caribbean Environmental Protection Division
City View Plaza II, #48 Carr 165 Ste 7000
Guaynabo, Puerto Rico 00968-8073

August 3, 2017

Certified Mail – Return Receipt Requested

7015 0920 0000 8688 6303

Mr. Manuel Mata
President
AES Puerto Rico, L.P.
P. O. Box 1890
Guayama, Puerto Rico 00785

Re: Notice of Site Visit Findings and Proposed Actions Pursuant to Sections 301(a) and 402 of the Clean Water Act; 2015 MSGP Tracking Number PRR053093

Dear Mr. Mata:

This letter addresses findings of non-compliance with the 2015 National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) that were observed by the United States Environmental Protection Agency (EPA) during a July 21, 2017 site visit to the AES Puerto Rico, L.P. coal-fired power plant (the Facility). This letter also responds to AES Puerto Rico, L.P.'s (AES) April 7, 2017 letter concerning the findings from the Enforcement Case Support Inspection (ECSI) performed by EPA at the Facility on August 12, 2016, and documented in a February 16, 2017 letter.

I. Findings of the July 21, 2017 Site Visit

On July 21, 2017, Mr. José A. Rivera, Lead Environmental Engineer, conducted a site visit of the Facility pursuant to Section 308(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a). Upon showing of credentials to the guard on duty and to Mr. Ramiro Rivera, Facility Maintenance Manager, he proceeded to perform a walkthrough of the Facility to observe: (1) the implementation of the Dust Control Standard Operating Procedure (Dust Control SOP also known as the Dust Control Plan); (2) the best management practices (BMPs) installed within the storm water discharge outfall 002 drainage area; and (3) the maintenance conditions of certain portions of the storm water collection and discharge system (i.e. storm water pond, discharge location into coal pile pond, and discharge outfall 003). The results of the site visit revealed the following concerns regarding the 2015 MSGP, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.^{1,2}

¹ The MSGP became effective on June 4, 2015 and expires on June 4, 2020.

² The violations found concern Part 2.1 (Control Measures), Part 5 (Storm Water Pollution Prevention Plan) and Part 8.O (Sector-Specific Requirements for the Steam Electric Generating Facilities) of the MSGP.

a. **Finding 1** (Picture 1 below depicts this observation):

- ⇒ A rain event took place during the walkthrough at the Agremax pile area and outfall 002.
- ⇒ The iron discharge concentration through storm water outfall 002 continues to be greater than the benchmark value established in Part 8.O.1 of the MSGP.
- ⇒ The storm water runoff reaching outfall 002 had the same color as Agremax.

Required Actions:

- ⇒ Divert and reuse the runoff first flush in all storm water discharges thru outfall 002.
- ⇒ Implement additional best management practices to bring the iron concentration below the benchmark value.³

MSGP Requirements: Part 4 and Part 6.2.1.2 (review the control measures and perform any required corrective action immediately).

Picture 1



b. **Finding 2** (Picture 2 below depicts this observation):

- ⇒ The filter fabric installed at the metal bar grate near outfall 002 was observed with significant accumulation of solids and deteriorated.

Required Actions:

- ⇒ Clean the catch basin
- ⇒ Replace the filter fabric

³ Please refer to EPA's finding 7.d.4 of the Enforcement Case Support Inspection (ECSI) Report, dated January 4, 2017, for more information about this finding.

MSGP Requirement: Part 2.1.2.3 (maintain all control measures in effective operating conditions).

Picture 2



c. **Finding 3** (Picture 3 below depicts this observation):

⇒ The storm water pond was not properly maintained, and was covered with significant vegetation growth.

Required Action:

⇒ Remove all vegetation from the storm water pond

MSGP Requirement: Part 2.1.2.3 (maintain all control measures in effective operating conditions).

Picture 3



d. **Finding 4** (Picture 4 below depicts this observation):

⇒ A portion of the concrete storm water conveyance ditch located at the south side of the Agremax pile was observed covered with Agremax.

Required Action:

⇒ The concrete storm water conveyance ditch shall be cleaned to allow for free/uninterrupted flow.⁴

MSGP Requirement: Part 2.1.2.3 (maintain all control measures in effective operating conditions).

Picture 4



e. **Finding 5** (Picture 5 below depicts this observation):

⇒ The diesel spill control tank had a discolored water accumulation and floating material.

Required Action:

⇒ The diesel spill control tank shall be emptied and cleaned of sediments and other materials.

⁴ EPA observed a person cleaning the ditch during the course of the walkthrough.

MSGP Requirement: Part 2.1.2.3 (maintain all control measures in effective operating conditions).

Picture 5



- f. **Finding 6** (Pictures 6, 7, 8 and 9 below depict certain locations in which the water sprinkler system was not observed in use and slope surfaces were not wet):

- ⇒ The water sprinkler system for dust minimization at the Agremax pile was not in use.
- ⇒ Certain areas of the Agremax pile were dry and without dust control water application.

Required Action:

- ⇒ Operate the water sprinkler system on all areas in which the Agremax is exposed at the pile in accordance with Part 6.3 of the Dust Control Plan and the Storm Water Pollution Prevention Plan (SWPPP) developed for the Facility.

MSGP Requirement: Part 2.1.2.10 (minimize generation of dust)

- g. **Finding 7**

- ⇒ The mechanical sweeper vehicle was not observed in use.

Required Action:

- ⇒ Operate the vehicle in accordance with Part 6.3 of the Dust Control Plan (daily wet mechanical sweeping of paved haul roads) and the SWPPP.

MSGP Requirement: Part 2.1.2.10 (minimize generation of dust) and Part 8.O.4.11 (reduce or control the tracking of ash and residue).

Picture 6



Picture 7



Picture 8



Picture 9



h. **Finding 8** (Picture 10 below depicts an example of this observation):

- ⇒ Areas of exposed soil (i.e. soil patches lacking crushed stone cover) near the water treatment facility, storm water pond, and internal road on the south side of the Facility lacked soil stabilization.

Required Action:

- ⇒ Re-apply crushed stone to cover those areas lacking soil stabilization.

MSGP Requirement: Part 2.1.2.5 (erosion and sediment control)

Picture 10



i. **Finding 9** (Picture 11 depicts this observation):

- ⇒ The gabion barrier filter fabric was in disrepair on the west side area of the Agremax pile. Agremax accumulation was observed in said gabion area, which reduces this best management practice capacity to filter storm water.

Required Action:

- ⇒ Remove material from the buffer zone between the bottom of the Agremax pile and the gabion structure.
⇒ Replace filter fabric.

MSGP Requirement: Part 2.1.2.3 (maintain all control measures in effective operating conditions).

Picture 11



j. **Finding 10** (Picture 12 depicts this observation):

- ⇒ A slope on the south side of the Agremax pile had eroded and Agremax reached the bottom of the slope, but was retained by the gabion structure.

Required Action:

- ⇒ Monitor and reinforce the side of the slope to prevent Agremax from overreaching the gabion structure.

MSGP Requirement: Part 3.1 (routine facility inspections), Part 2.1.2.3 (maintenance) and Part 2.1.2.5 (erosion and sediment control).

Picture 12



In addition to the findings described above, AES indicated to EPA that the Agremax pile had an accumulation of approximately 425,000 tons of Agremax at the time of the EPA site visit, and that water application for dust control at the Agremax pile only occurs during the daylight hours only.

Within fifteen (15) calendar days of receipt of this letter, AES shall:

- 1) submit a definitive compliance plan to address all findings discussed, including estimated cost and an implementation schedule, which shall not exceed sixty (60) calendar days for those actions that are not associated with dust minimization at the Agremax pile.
- 2) submit to EPA a copy of the Dust Control Checklist on a weekly basis until further notice, including pictures or videos depicting that the conditions of entire Agremax pile.⁵
- 3) submit to EPA a copy of the most recent version of the SWPPP developed for the Facility, including the Dust Control Plan referenced in this letter.
- 4) submit to EPA an assessment of the maximum safe height and slope of the Agremax pile within the perimeter formed by the gabions, and an assessment of the ability of the dust control sprinkler system to effectively control the release of fugitive dust from the Agremax pile at its maximum safe height.

Immediately upon receipt of this letter, AES shall implement dust minimization measures to keep all exposed areas of the Agremax pile wet at all times. The dust minimization shall be implemented during day and night hours.

In the event that AES or EPA concludes that the dust control sprinkler system cannot effectively control the release of fugitive dust from the Agremax pile, AES shall implement corrective measures to allow for effective dust control. Such measures may include: physical reconfiguration of the dust

⁵ The Dust Control Checklist is found as an appendix to the Dust Control Plan.

control system; installation of filter fabric on the slopes of the Agremax pile; and/or an expedited schedule for increased off-site shipments to reduce the Agremax pile to a size for which fugitive dust may be effectively controlled.

All information or documents required to be submitted by AES in accordance with this letter shall be sent certified mail or its equivalent, or by electronic submission to:

José A. Rivera, BSCE
Team Leader, Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
48 RD. 165 Km. 1.2
Guaynabo, PR 00968-8069
rivera.jose@epa.gov.

Pursuant to 40 C.F.R. § 122.22, all information required to be submitted shall be signed by an authorized representative of AES, and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Electronic submissions are encouraged.

II. Response to Findings of the ECSI Report

EPA has considered AES's comments submitted by letter dated April 7, 2017, concerning findings from the Enforcement Case Support Inspection (ECSI) performed by EPA at the Facility on August 12, 2016, and documented in a February 16, 2017 letter, and responds as follows:⁶

1. No further action is required concerning EPA's findings in paragraphs 7.a, 7.b, 7.c, 7.d.1, 7.d.2, 7.d.3, and 7.d.8 of the ECSI Report.
2. The findings concerning dust generation, vehicle tracking of industrial materials, fugitive dust emissions, tracking of ash and residues from ash loading areas, and ash residue tracking were addressed by AES.⁷ However, the findings of the July 21, 2017 site visit revealed that AES was not complying with Parts 2.1.2.12, 8.O.4.1, 8.O.4.11 and 8.O.4.12 of the MSGP.
3. AES failed to indicate whether the Dust Control Plan was incorporated in the SWPPP, as required by Part 5.2.4 of the MSGP.⁸

⁶ The ECSI Report was signed on January 4, 2017, and was attached to the EPA February 16, 2017 letter.

⁷ See EPA's findings in paragraph 7.d.5, 7.d.6, and 7.d.7 of the ECSI Report.

⁸ See EPA's finding in Part 8 of the ECSI Report.

4. The ECSI Report included EPA's evaluation of AES's compliance with the Administrative Order on Consent (ACO), Docket Number CWA-02-2015-3102, executed on March 18, 2015.⁹ The following responds to previously identified deficiencies:
- i. Paragraph 67 – The Revised Storm Water Sampling Standard Operating Procedure (SW Sampling SOP) must be incorporated in the SWPPP and implemented accordingly, as required by Part 5.2.5.3 of the MSGP.
 - ii. Paragraph 72.c –The Revised Coal Combustion Residuals and AgremaxTM Dust Control Plan (Dust Control Plan), dated April 7, 2017, must be incorporated in the SWPPP and implemented accordingly, as required by Part 5.2.5.3 of the MSGP.

AES is advised that EPA may perform additional evaluations of the SW Sampling SOP and Dust Control Plan, as provided in Part 4 of the MSGP.

5. The ECSI Report included EPA's evaluation of AES's compliance with the MSGP. No further actions are required with regard to AES's response to EPA's review of AES' compliance with the 2008 MSGP.

This letter shall not be deemed an election by EPA to forego any administrative or judicial action for penalties, fines, or other appropriate relief under Section 309 of the CWA, 33 U.S.C. § 1319, arising from EPA's investigation of AES's compliance with the CWA.

If you have any questions concerning the above, please contact Mr. José A. Rivera, Lead Environmental Engineer, Clean Water Act Team, at (787) 977-5887, or at rivera.jose@epa.gov.

We urge your prompt attention to this matter.

Sincerely,



Carmen R. Guerrero-Pérez
Director

Caribbean Environmental Protection Division

cc: Tania Vázquez, EQB (via email)

⁹ EPA provided notification to AES that the ACO was terminated in the EPA February 16, 2017 letter.

